

 **DRAFT MINUTES**
NRPC ENERGY FACILITIES ADVISORY COMMITTEE SPECIAL MEETING
07/29/15

MEMBERS PRESENT:

Tom Young, Town of Litchfield
Elvis Dhima, Town of Hudson
Kat McGhee, Hollis
Mark Bender, Town of Milford
Tad Putney, Town of Brookline
Tim Thompson, Town of Merrimack
Hal Lynde, Town of Pelham
Kermit Williams, Town of Wilton
Steve Wells, Town of Mason

OTHERS PRESENT

Eric Tomasi, FERC
Jonathan Hess, Cardno (FERC)
Madison Waters, Kinder Morgan
Julia Steed Mawson, Pelham NH
Bob Dillberger, Mason Conservation Commission
Carolyn Sellars, Townsend
Tim Murphy, SWRPC

STAFF PRESENT

Tim Roache, Executive Director Sara Siskavich, GIS Manager Karen Baker, Program Asst.

CALL TO ORDER

Roache called the meeting to order at 1:04pm by providing background to the group of EFAC's formation and process to date. Roache introduced Eric Tomasi from FERC and asked for introductions around the table.

PRESENTATION: ERIC TOMASI, FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Tomasi introduced himself as the Project Manager for the Northeast Energy Direct Project in the Division of Gas-Environment & Engineering in the Office of Energy Projects, Federal Energy Regulatory Commission (FERC). Part of his job is to prepare environmental impact statements and alternative analyses. He explained that FERC is an independent federal regulatory agency that regulates the interstate transmission of natural gas (siting & rates); electricity and oil (rates only), reviews proposals to build interstate natural gas pipelines and liquefied natural gas (LNG) terminals, and natural gas storage fields per the National Environmental Policy Act, and licenses and inspects non-federal hydropower projects.

He presented a FERC organization chart, pointing out the five-member board of Commissioners who are the final decision-makers for natural gas pipeline projects. Tomasi provided detail on FERC's authority per Section 7 of the Natural Gas Act and the Energy Policy Act of 2005 which gives them siting authority, determination of public convenience and necessity, optional authority to use of the pre-filing process for pipeline projects, and names FERC the lead agency for National Environmental Policy Act (NEPA) review and coordination of all federal authorizations including impacts to environmental resources and recommendations. Tomasi added that other agencies are encouraged to participate in the process. He summarized the state and local permitting process, FERC's role as the lead for the NEPA review which includes establishing a schedule for all Federal authorizations and maintaining a complete consolidated record for judicial reviews.

Tomasi reviewed the three connected pieces of the natural gas chain as production, transportation and consumption which is how to get gas from point A to point B when determining need. He added that the goal is to work with agencies to minimize conflicts. He pointed out the Phases of Project Review as: marketing and preliminary project design, pre—filing (currently in this phase), application review, and post-authorization. He added that on December 8, 2014 FERC filed the resource reports, alternatives and general project description. Tomasi informed the group that the NOI was sent out on June 30th and ends on August 31st which is the formal comment period for when TGP has to respond. Additionally, FERC responds to all comments in the EIS. Comments can be accepted throughout the entire process and FERC will address them. In addition to addressing the comments on the draft EIS, another comment period will be scheduled for the public. Comments are addressed individually if a letter is sent. Putney asked Tomasi if there was a sense of timing on the Notice of Schedule. Tomasi answered that the company wants a

certificate by November next year and that it is all speculative right now and they have to wait for the application to see what they see.

He proceeded to review the certificate and pre-filing process, the NEPA pre-filing review, the FERC pre-filing activities and the resource reports. Next Tomasi talked about the agency involvement components as cooperating, participating, and intervener. He explained that intervener status comes right after the application process and allows the intervener to appeal in court and seek a rehearing of the FERC decision and submissions must be served on the applicant and all other parties to the proceeding. A motion must be filed to intervene. Tomasi summarized the FERC/agency actions during pre-filing, applicant's responsibilities at filing time, the FERC/coop. agency actions during application review, and the EIS pre-filing environmental review process.

Next, Tomasi talked about FERC's Environmental Compliance Management Program in relation to construction and FERC's plans and procedures for upland erosion control, revegetation and maintenance and wetland and waterbody construction and mitigation procedures.

He said prior to construction beginning and once the Commission has approved the project, FERC reviews the implementation plan provided by the applicant, grants the applicant a notice to proceed with construction, holds environmental training and then construction may begin.

During construction, FERC staff conducts inspections with an inspection contractor (Tetra Tech) and compliance monitoring. During construction, the applicant will always have at least one environmental inspector per construction spread on site.

Tomasi listed the five typical compliance levels as communication, acceptable, problem area, non-compliance and serious violation. He added that no pipeline is problem free that there are usually minor compliance issues and a spread can be shut down if they have repeated spread issues.

Lastly, Tomasi explained a variance is a change made by the applicant post-certificate and requires approval from FERC. All variance requests go straight to FERC when a 3rd party compliance monitoring program is not being used by the applicant. If using a 3rd party program the 3 variance levels are: 1) Approved by Compliance Monitor in the field; 2) Approved by Compliance Manager; and 3) Approved directly by FERC.

Tomasi informed the group of some of the common compliance issues being: inadequate secondary containment, dewatering, topsoil/subsoil mixing, use of unapproved access roads and conducting activities outside the approved construction work area. Lastly, Tomasi showed a picture of a completed right of way after a project was completed.

Q&A BETWEEN EFAC REPRESENTATIVES AND FERC: IN-DEPTH DISCUSSION ON PROJECT

A member of the group asked about typical construction spreads. Tomasi said there are many crews doing different phases of construction, but generally they come in do a spread, and then move on along the line.

Lynde asked about firm commitments and if they had a confirmation of customers. Tomasi said for the EIS they do not have this information and that the Commission makes the determination. He referred to the policy document PL99 which lays out how the Commission makes their decision. He also said that 5 Bcf is confirmed but the other 8 Bcf was not identified.

McGhee asked about the case for need on replacement vs. incremental and if this was taken into consideration. Tomasi said that was not his area of expertise, but there were other people at FERC that could answer that.

McGhee asked about the interaction with the public/citizens and the FERC website and said she would like feedback on how to get information on what you are looking for on the site. She added that she felt it was not open and transparent. She added that it needed to have a landing page. Tomasi did a quick tutorial

onscreen for the group on how to navigate the FERC website. McGhee suggested having a page for every project with buttons for different things (e.g. environmental docs, etc.).

Wells asked if the EIS considers short or long-term impacts to the environment. Tomasi said both, for example, 100 years for greenhouse gasses, and 20-30 years for trees. Wells asked how a project can factor in the issue of gas contribution when commitments are not firm, for a pipeline that represents 100% new infrastructure. How does FERC justify a project and the decreasing chance for renewables. Will FERC consider the potential for KM shipping gas to Canada. Tomasi said the Commission will take this information into consideration. He added that all reports are looked at and each Commissioner makes their own decision.

Putney asked if there was any news on the 3rd scoping session. Tomasi said it would be in Cheshire County sometime in August. He was unsure of the location but guaranteed there would be one. He also encouraged folks to attend the Nashua scoping meeting as that was a bigger venue and would hold more people than Milford would.

Williams asked how intervener status affects the applicant schedule. Tomasi said a file a request must be made for a rehearing with the reason and served on all parties. FERC attorneys are involved and that request can be denied by FERC. The hearing order can be slightly different. Williams asked about the timing. Tomasi said within 30 days but he was not 100% on that answer and suggested calling the FERC counsel office.

There were several questions from EFAC to Tomasi about the handling of non-environmentally-related comments and questions related to the project during pre-filing. For example, who would answer a non-environmental comment filed in the docket, and what would be the timing of that response. In general, Tomasi said comments that deal with topics such as need are dealt with by other groups at FERC. Tomasi said answers to those inquiries would not be reflected in the EIS. Bender asked where the response would be for the commitment on replacement gas vs. incremental. Tomasi said that would be found in the order and not the EIS. He added that the Commission order is reflective of the Commission's decision.

Williams commented that FERC works from the premise that natural gas infrastructure is generally good, and that the likelihood is that FERC would project if all the environmental impacts are met. Tomasi suggested looking at the Commission statements and referred to the PL99 process. Williams questioned the balance between FERC and the NH SEC for compliance-related issues. Tomasi said that DOT can send out inspectors for pipe construction safety and the "SEC as a state agency" should be involved now.

Murphy asked for process clarification on comments submitted after the formal comment period is over. Tomasi said he has to get through the resource reports, and agency questions can be sent to him and he can direct those questions to TGP in a data request. But in general, questions can be asked anytime and will be addressed in the EIS.

Siskavich asked for guidance on making comments about the potential existence of threatening or endangered species. Tomasi suggested a two-fold approach would be best, where the individual(s) with that knowledge should submit comment directly on the docket and also request the corresponding state agency to do the same.

Siskavich asked how FERC views cooperative agreements between impacted communities and the applicant. Tomasi said favorably, for example on the issue of working out alternative routes, but FERC doesn't have to go along if their analysis doesn't agree--it's a balancing act.

McGhee had a question in regards to scheduling and if the route would be finalized before the certificate is issued. Tomasi said he did not expect to it be fully figured out, but it should be formed and complete by October and the final EIS should be ready in 3rd quarter 2016. He added that the Commissioners can issue the order according to their own timetable.

Williams asked how FERC handles the citizen objections for surveying their property. Tomasi said he suggests to people to grant survey access. If he does not know the reason for an objection of a person in opposition, then he can't include it in the EIS and the project can be approved without property being surveyed. He added that if he does not know the issues of a property, he can't relay this to the proper people to change or move something.

Putney asked about the history of the decision making of the Commission and if it is unanimous or 3/2. Tomasi said he does not track this but in a recent NY project, it went 3/2. He added that they do take into account opposition for the project. Putney asked if groups are forbidden to lobby the Commissioners. Tomasi said everything goes into record. At FERC, there are decisional and non-decisional employees and that status affects those types of activities.

Dhima asked how many people from FERC are working on this project. Tomasi said there are closer to 20 people, but its influx as they need multiple people to work on it due to the size of the project and that number may expand over time. Tomasi added that FERC is funded through industry taxation and the general fund, not taxpayer dollars.

With no additional questions from EFAC, Roache opened the floor to guest questions.

Dillberger asked what is looked at in relation to alternatives when determining the size of the pipe. Tomasi said the length of the pipeline and he also looks at environmental impact costs. He also gets information from the state. Dillberger asked how long monitoring is conducted after a project is constructed. Tomasi said they don't really every walk away, but usually one to two years. He added that the goal of the EIS is to capture all adverse effects both environmental and socio-economic.

Sellers asked how FERC regards the no-build alternative. Tomasi said yes absolutely it is something they look at. She also had concerns with forested land impacts and if there were roadway alternatives. Tomasi said he did not know the details and suggested she craft questions and submit them to FERC to capture her concerns and have them addressed before the application filing. Tomasi reminded the group that pre-filing is voluntary and that the applicant can pull out anytime and file the application. He also made the point that while there has been many comments about the holes in the Resource Reports, the amount of information in the NED reports exceeds what is typical at this step in the process—many times the applicant has only Resource Reports 1 and 10 filed.

Tomasi said he would send a link to all of the draft resource reports. He added that there are 3 levels of information, some of which require authorization. He would be sending links to the public information.

Mawson asked Tomasi what the most helpful statements are to him in relation to scoping meetings. She also asked if it is more effective to use experts from the community when framing their questions about highly technical topics. Tomasi mentioned that issues regarding safety are part of the EIS so that is always useful to know. Tomasi said if 1,000 people have a water stream concern, provide a level of detail and that will help.

Tomasi concluded and asked if he could provide anything else to the group. Wells asked what he will do with the information gathered today from the questions asked by the group. Tomasi said they will be put into a general summary, but specific questions from today should be submitted in writing.

Mawson asked what other people will receive the EIS. Tomasi said the certificate manager, engineer, attorney, flow diagram person, rates and tariffs people. This group will go through the EIS and address comments related to them.

The meeting ended at 2:37pm.